

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

In re:

Case No. 09-34791-BKC-RBR
Chapter 11

ROTHSTEIN ROSENFELDT ADLER, P.A.,

Debtor.

RULE 2004 EXAMINATION OF
SCOTT W. ROTHSTEIN

✓
Corrected
12/19/11

Taken on behalf of the Chapter 11 Trustee

DATE TAKEN: December 12, 2011

TIME: 8:30 a.m. - 12:04 p.m.

PLACE: James Lawrence King Federal
Justice Building
99 N.E. Fourth Street
Courtroom 11-3
Miami, Florida 33128

ALR

Examination of the witness taken before:
Michele L. Savoy, Registered Professional Reporter
United Reporting, Inc.
1218 S.E. Third Avenue
Fort Lauderdale, Florida 33316
(954) 525-2221

1 marked as Trustee's Exhibit No. 1 for
2 Identification.)

3 BY MR. LICHTMAN:

4 Q I've just shown you what has been marked
5 as Trustee's Exhibit One for identification
6 purposes. It's titled Confidential Settlement
7 Agreement General Release. This pertains to the
8 Brauser transaction.

9 Are you familiar with this document?

10 A Am I familiar with this specific document?

11 Q Yes.

12 A Yes.

13 Q Okay. Do you recall the circumstances
14 respecting the Brauser settlement?

15 A I do.

16 Q What was it that led to you entering into
17 this settlement agreement with the Brausers?

18 A The Brauser family were investors in the
19 Ponzi scheme through one of our feeder funds, the
20 Banyan people. That's George Levin and Frank Preve.

21 And at some point in time, we were
22 notified -- "we" being me and Frank Preve -- were
23 notified that ^{Brausers'}~~Browsers~~ wanted their money back.

24 We had specific conversations with the
25 Brausers' attorney, a guy named Grazieski

1 were, no.

2 Q Did he question you as to the reason why
3 he was having to sign the settlement agreement that
4 required RRA to pay \$4.2 million to the Brausers?

5 A At this time, I do not recall the specific
6 conversation about it. No.

7 Q Okay. How about with respect to Mr.
8 Adler? What were the circumstances as to his
9 signature getting on the document?

10 A Same circumstances: ~~We~~ ^{we've} got to return a ✓
11 bunch of money to these people. We don't want
12 what's going to happen if we don't get this document
13 back to them. Sign it.

14 Q And you had that conversation with Mr.
15 Adler?

16 A With Mr. Rosenfeldt and Mr. Adler.

17 Q Were they in the room together?

18 A No. Nhu-uh.

19 Q What did Mr. Adler say?

20 A He didn't say anything. He signed the
21 document.

22 Q All right. Well, your question -- your
23 answer to my question appears to suggest that they
24 knew that you were involved in some kind of
25 transaction that would require you to give back

1 conversation?

2 A No.

3 Q There's no doubt in your mind, though,
4 that that would be Mr. Adler's signature at Page 16?

5 A It's absolutely his signature. I had him
6 sign the document.

7 Q Is there anybody else that you told -- you
8 caused to sign it or that Adler told you that he
9 discussed signing with --

10 A Other than --

11 Q -- on the --

12 A Other than my conversations with the
13 government, no.

14 Q Okay. Were there other lawyers at RRA
15 that knew that the firm was engaged -- excuse me --
16 that you were engaged in the Ponzi scheme?

17 A I need you to clarify the question. As
18 it -- do -- people that knew through me or people
19 that I think knew?

20 Q People that knew through you and
21 participated directly or indirectly?

22 A Yes.

23 Q Who would those be?

24 A Debra Villegas, Marybeth Feiss, Andy
25 Howard, David Boden.

Amy ✓

1 you've you've
 ~~you~~ got Stu and ~~you~~ got Russ. ✓
 2 Steve Lippman, to a limited extent.
 3 Irene Stay, William Boockvor, who you have
 4 down as Bill Brock.
 5 Q Uncle Bill?
 6 A Yes.
 7 Curtis Renie. Bill Corte.
 8 Bear with me a minute. I'm just kind of
 9 going around the office.
 10 That's all I recall at this moment.
 11 Q Okay. You mentioned --
 12 A Oh, wait. Adeleta Labello, to some
 13 extent; that's Stu's paralegal.
 14 David Boden's paralegal. And I don't
 15 remember her name, 'although it is on some of these
 16 documents someplace.
 17 I think -- I just -- I just want to be.
 18 clear, okay, when you -- I'm sure all of you have a
 19 pretty good idea of all the various things that were
 20 going on at the law firm. So when you're asking me
 21 that kind of question, to me, everything that was
 22 going on was integral to ~~this~~ ^{the} sustenance and ✓
 23 movement of the Ponzi scheme. So other people may
 24 have been involved on different levels, but that's
 25 all I recall at this moment.

1 A All right.

2 Q Okay. First off, there was an executive
3 committee at the firm, right?

4 A Yes.

5 Q Okay. And do you recall who the members
6 of that committee were?

7 A Specifically, no.

8 I know that it was me, Stu, Russ, Lippman,
9 ~~Les Striker~~ ^{Stracher} I think Mr. Nurik. ✓

10 I don't recall who else was on it.

11 Q Striker had no involvement in the Ponzi
12 scheme, correct?

13 A Correct.

14 Q And Mr. Nurik had no involvement in the
15 Ponzi, correct?

16 A Correct.

17 Q You have no reason to believe that they
18 knew the existence of the Ponzi scheme until after
19 it became public?

20 A Correct.

21 Q Okay. So I'm going to take their names.

22 Now, there were some other lawyers in the
23 firm as well, and tell me if you think that they
24 knew or -- strike that.

25 First, tell me if they were involved in

1 the Ponzi scheme, and then, second, so we can do
2 this quicker, if they knew of the Ponzi scheme, even
3 though they may not have known what was going on.

4 A Let me just -- ^{you've}~~you~~ got to clarify. I ✓
5 don't mean to be a pain in the butt on this, but you
6 have to clarify Ponzi scheme for me. Because,
7 again, you have multiple levels of criminal activity
8 in the law firm that you may not think was related
9 to the Ponzi scheme, but which you'll see on further
10 investigation was related to the Ponzi scheme.

11 So you want to know what my belief is as
12 to whether or not they were involved at any level?

13 Q Well, how about if I change the question
14 then and say that if they were involved in illegal
15 activity at the firm.

16 A Fair enough.

17 Q Okay?

18 A Yes, sir.

19 Q We will go back and we'll talk about
20 whether or not that any of these people knew and
21 then, third, what they would have done had they
22 known.

23 A Okay.

24 Q So first question is this pertains to
25 lawyers that participated.

1 A Yeah. Eventually, he would have. I think
2 he probably would -- he was a very good person. I
3 think he probably would have tried to help us clear
4 up the mess before he reported it, just knowing the
5 way he was. He was just a generally good guy, but
6 if ~~they~~^{we} didn't make things right, I believe he would
7 have reported it, yes. ✓

8 Q Matthew Weissing?

9 A Same answer as to Osvaldo.

10 Q Okay. And Richard Wolfe.

11 A I don't know what Richard would have done.

12 Q Did you take affirmative steps to hide the
13 illegal activity from the ten or so lawyers that you
14 just mentioned that had they known of the commission
15 of fraud, would have reported it?

16 A To a large extent, yes.

17 Q What did you do?

18 A We limited access to the information.

19 I mean, in a law firm that size, it's not
20 difficult to hide information. People are -- you
21 know, in the legitimate part of our law firm, people
22 were practicing law. They were interested in
23 practicing law and in properly representing clients,
24 so it wasn't difficult to hide it from them.

25 They did their business, made sure they

1 got their checks, and if they asked questions, you
2 came up with a plausible excuse for the delay and
3 moved on.

4 Q And you tried to hide it from most of the
5 people in the firm, correct?

6 A The bulk, the great number of them, yes.

7 Q Okay. That would include other lawyers
8 who we didn't even talk about, right?

9 A True.

10 Q Okay. So what steps did you take to hide
11 it from them?

12 A Other than lying to them when they asked
13 questions, I mean, we didn't really -- there were no
14 other steps necessary.

15 Q How about the -- what we'll call the inner
16 sanctum, the lockdown of your offices?

17 A Okay. Maybe -- let's clear this up now.
18 The inner sanctum, okay, that only existed -- you
19 have to get the build out information. But for the
20 bulk of the time that we were in business, my office
21 was wide open to everybody. So was Irene Stay's.
22 So was Deb Villegas's.

23 So I -- I don't believe that affirmative
24 steps needed to be taken, I think, to address the
25 ~~nature~~ ^{ISSUE} you're trying to get to, to hide what was

and check the date it was completed

1 going on. Because, again, the people that were
2 practicing law and had faith in the quote, unquote,
3 management of the firm, they were doing well. They
4 did what they needed to do to practice law.

5 The other people that were involved, some
6 people got directly involved; some people had
7 knowledge of what was going on but weren't directly
8 involved. And then there were a group of people
9 that I have reason to believe had knowledge but were
10 doing very well and didn't really care one way or
11 the other.

12 But you have got to remember the best way
13 to look at when that inner sanctum -- as I called it
14 in one email, I believe, sanctum sanctorum. The
15 date that build out was completed should be a matter
16 of record.

17 Until that point in time, there was
18 nothing locked down. Everything was wide open. ✓

19 CFO's office, COO's office, my office,
20 Marybeth ~~Feinstein~~ ^{Feiss Amy} Howard, my assistant, we were ✓
21 all wide out in the open. People could come and go ✓
22 as they pleased.

23 Q Is it a fair statement that financial
24 information in the firm was not distributed to
25 lawyers in the firm?

1 A It was only distributed to certain
2 lawyers.

3 Q Who received the financial information?

4 A To the best of my knowledge, Stu
5 Rosenfeldt, Steve Lippman, David Boden. Les
6 ~~Straker~~ ^{Straker} for a period of time was actually heavily ✓
7 involved in our finances, actually trying to keep
8 the lawyers actually producing, but he was not --
9 did not have access to trust information.

10 The other lawyers ^{that} had access ~~to~~ ^{were} the ones I ✓
11 just mentioned -- had access to trust accounts.

12 Q Adler?

13 A Adler.

14 On --

15 Q Let me clarify at -- let's clarify --

16 A To a limited extent.

17 Q Okay. Adler had access to limited
18 financial information?

19 A Adler had information about what his group
20 was producing, okay, and what his trust account, the
21 personal injury trust account, had in it.

22 Q And you would agree that he knew for an
23 extended period of time he had trouble getting
24 checks out of trust as well.

25 A Yes.

1 Q So in terms of the makeup of the senior
2 leadership of the firm, you had the executive
3 committee. What was their function?

4 A To advise me.

5 Q And did you listen to them?

6 A Sometimes.

7 Q Okay. And your position was technically
8 as CEO?

9 A Correct.

10 Q Okay. So if Mr. Nurik had a suggestion,
11 you would listen to it. If you thought it made
12 sense, would you follow it?

13 A Well, you want me to answer that with him
14 sitting right next to me?

15 Yeah. Well, if it was -- you have got to
16 separate it out. If it's legitimate law firm
17 business and they made a suggestion that I agreed
18 with, I followed it.

19 And as you well know, if they made a
20 suggestion I didn't agree with, I just did whatever
21 I pleased.

22 Q And ^{Straker}Striker and Nurik were part of the
23 executive committee, correct?

24 A I -- I'm pretty sure both of them were the
25 entire time it was in existence, yes.

1 Q Okay. Now, were there any other
2 committees that existed within the firm that dealt
3 with management issues?

4 A I'm sure there were, but off the top of my
5 head, I don't recall.

6 Q There were two levels of senior leadership
7 among the partners, what we'll call lawyers that
8 were not "associates" as the term widely used in the
9 legal community. There were partners and
10 shareholders.

11 A Correct.

12 Q Can you advise me, what was the difference
13 between a partner and a shareholder?

14 A It was just a level of -- a different
15 level of recognition within the firm, more perks for
16 the shareholder than the partner.

17 The partner was ^{were} ~~were~~ you coming up, but ✓
18 there were no other equity positions in the firm,
19 other than myself and Mr. Rosenfeldt.

20 Q Were these more respected lawyers in the
21 firm?

22 A To --

23 Q Be a fair statement, right?

24 A To my way of thinking, yes.

25 Q And many of the partners, slash, or

1 shareholders were some of the names that we
2 mentioned earlier, correct?

3 A Sure.

4 Q Okay. And to be sure, the shareholder was
5 the higher level status, right?

6 A Yes.

7 Q Mr. Berger, was he a partner or
8 shareholder?

9 A I believe that we made him a shareholder,
10 but I don't recall off the top of my head.

11 Q How about Barski?

12 A No, I don't know what Barksy was.

13 Q Cirulnick?

14 A Don't recall.

15 I believe those guys were just associates.

16 Q Pedro Dijols?

17 A You know, I don't remember, Chuck.

Mr. Lichtman ✓

18 Q Dishowitz?

19 A Associate, I believe.

20 Q Gary Farmer?

21 A I believe he was a shareholder.

22 Q Fistos?

23 A Don't recall.

24 Q Julio Gonzalez?

25 A I don't recall.

1 subject to a Rule 7030 deposition that we'll get to
2 at some point in the future, presumably.

3 I do have a couple of questions about
4 jewelry and witnesses, though.

5 A Okay.

6 Q And one other related issue.

7 In J.R. Dunn's initial disclosures,
8 they're required under the bankruptcy rules -- they
9 listed some persons who they thought had knowledge
10 of disposition of your jewelry.

11 I'm pretty sure that we can account for a
12 bunch of your jewelry being seized by the
13 government --

14 A ~~Mhm-mhm.~~ YES

15 Q -- subject to forfeiture?

16 A Correct.

17 Q And I have a pretty fair understanding
18 that there was a lot of jewelry that you acquired
19 over time that you sold and you converted into cash.

20 A That's correct.

21 Q Okay. So I want to go through these names
22 and tell me what you know about these particular
23 individuals. Patrick Daoud of Daoud's Fine Jewelry,
24 they say that -- meaning SBD says that they have
25 knowledge of disposition of jewelry.

1 A SBD is J.R. Dunn?

2 Q Yes.

3 To the best of your knowledge, what
4 information would Patrick Daoud have respecting
5 knowledge of your disposition of jewelry?

6 A I have no idea.

7 Q How about a Julien Sigler, S-I-G-L-E-R?

8 A Never heard of the name.

9 Q How about Eddie Marin, M-A-R-I-N?

10 A Eddie Marin? Eddie Marin? I met Eddie
11 Marin at Capital Grille. I don't know what business
12 he's in.

13 And ^{I've} got to tell you, I have no idea what ✓
14 he would know about me or my possessions.

15 Q How about Rappaport USA d/b/a Rafdeck in
16 New York City?

17 A No, I don't know what that is.

18 Q Do you recall selling any of your jewelry
19 to either Patrick Daoud or Julian Sigler or Eddie
20 Marin or Rappaport?

21 A I did not sell my jewelry to any of the
22 people that you listed. That doesn't mean that
23 someone that I did sell my jewelry to didn't
24 ultimately sell it to those people. I don't know.

25 Q Do you recall who you sold your jewelry

1 government.

2 Q And there is no name that you -- you can
3 recall of persons who you sold jewelry to other than
4 businesses that you had done -- engaged in business
5 with?

6 A Other than people that I was engaged in
7 business with, because I was constantly in need of
8 cash for various things. I would buy jewelry from
9 people and sell it back to them at a discount when I
10 needed cash.

11 Other than that, those people on that
12 list, unless someone else sold them something, I had
13 nothing to do with them.

14 Q The trustee is exploring a claim with
15 respect to a piece of jewelry that was purchased
16 by -- purportedly Steven Greenlaw from Daoud's. It
17 was a diamond ring.

18 Do you know anything about that?

19 A My recollection is that Steven, who was
20 the head of my ^{Ft. Lauderdale} Florida police detail, borrowed money ✓
21 from us, from me, to purchase an engagement ring.

22 Q When you say borrowed money, did you give
23 him cash or was there a check?

24 A You know, I don't recall, Chuck.

25 Q Do you recall if that got repaid?

Ovi
Ronnie
Dahan

1 generally. I'm not so much focused necessarily just
2 on the Lipsitz transaction reflected by these
3 documents but by the structure of how you put
4 together certain of these deals so that we can get a
5 sense of it.

6 A Okay.

7 Q The email of February 12th from you to
8 Irene and Debra says very simply at the top, "Fund
9 \$925,000."

10 You agree that that's what the 925K means,
11 right?

12 A Yes.

13 Q Fund \$925,000. ROI 600,000.

14 Would you agree that ROI means return to
15 investment of 600,000?

16 A Correct.

17 Q And it says "Paid in equal payments over
18 seven months."

19 See that?

20 A Yes.

21 Q Okay. We have ^{found} ~~filed~~ a large number of ✓
22 similarly structured transactions, emails, we'll
23 call them deals, whatever, where some of the
24 paperwork comprises largely of an email just like
25 this. It says fund X amount, ^{RoF} ~~ROI~~, Y amount, paid in ✓

1 And at this point in time in February of
2 2009, we were using full-blown deal packets.

3 Q Right. I'll get to that.

4 A And we -- I would find out generally from
5 Irene how much money we needed in the accounts to
6 make payments to the other investors, and then we
7 would go through our base of investors, whether it
8 ~~be~~ ^{was} the Banyan on Szafranski or whoever it was at the ✓
9 time.

10 In this case, we had a certain number of
11 people that were doing what I call simple deals, and
12 meaning there was no paperwork with them other than
13 a promissory note.

14 Q Like these?

15 A Yes.

16 Q Okay.

17 A This would just be all part and parcel of
18 how we would get money to pay the investors.

19 Q Now, was this money typically in your mind
20 allocated just to pay other investors or was it also
21 going into general bank accounts to be used for
22 those firm expense as well -- personal expenses?

23 A It was going to pay investors, to pay my
24 expenses, Stu's expenses, ^{Stevens} ~~Russ's~~ expenses, law firm ✓
25 expenses, Adler's expenses. ~~Whatever~~ ^{Wherever} money needed ✓

1 to be spent, that's where it went.

2 Q And is that why the amounts fluctuate from
3 deal to deal so radically?

4 A I mean, I think that the amounts do two
5 things. One, it's how much money we needed at the
6 time. And I guess that's really it; it's how much
7 money we needed and what the -- I guess more than
8 anything, other than what we needed was what the
9 market would bear.

10 I had a pretty good idea of the
11 individual's financial wherewithal, their ability to
12 invest at various points in time based on
13 conversations I had with them.

14 So if I would have conversations with
15 Barry, and he would say I have, you know, ^{I've} got -- I ✓
16 have access to about a million to invest. I would
17 give him a deal close to a million.

18 Q And then you would set a return of --
19 return on investment based on what you thought he
20 would be happy with in order to make sure you got
21 the million in?

22 A Yes.

23 Q Which in this case was really 925?

24 A Correct.

25 Q I note that the checks attached are

1 numbered sequentially: 25974, 2975, etc. And
2 they're each for the ninth day of succeeding months
3 starting in the month of March 2009.

4 Why and how was it set up so that you
5 would be issuing checks all at the same time?

6 A This was very simple. ~~Take~~ ^{We've} a deal with ✓
7 Barry. We would send him: This is what ~~we~~ got. ✓

8 There should be an email to Barry
9 somewhere corresponding to this. Sometimes I did it
10 by phone, but a lot of times I sent him an email.
11 And he would say, ^{yay} ~~aye~~ or nay. ✓

12 The second he said yes, I would say, When
13 are you going to fund? We need funding by
14 tomorrow -- whenever it is. He would say, I am
15 wiring today or tomorrow. I would buzz or ~~ring~~ ^{e-mail} ✓
16 Irene, just like I did here, and say I need this
17 many checks. Most of the time it was by email, but
18 sometimes I would pick up the phone and say cut
19 these, tell her to cut the checks, and Deb would
20 make sure that they got out in overnight mail.

21 Q Did you always do promissory notes for
22 these kind of deals?

23 A For these with Barry, I'm pretty sure I
24 always did promissory notes. There may be a couple
25 where they got away.

1 No one was ^{really} ~~reasonably~~ concerned with ✓
 2 getting promissory notes. They were concerned with
 3 getting their checks.

4 Q Why wasn't he concerned with promissory
 5 notes?

6 A Because we were a good pay. I mean, he
 7 was always receiving his money.

8 Q Okay. I'm going to move on because we
 9 will ultimately have a deposition regarding him.
 10 I'm just getting background right now.

11 A Okay.

12 Q You'll see the next transaction is part of
 13 Composite Exhibit 2. It's a \$900,000 promissory
 14 note.

15 A I got a \$600,000 one.

16 Q For 600. I'm sorry, I misread. Yes,
 17 600,000 promissory note.

18 Typically, and this is also for
 19 Mr. Lipsitz, this is July 2, 2009, so this is a deal
 20 that would be subsequent to the first transaction we
 21 discussed.

22 A Right.

23 Q Who drafted the original form of the
 24 promissory note?

25 A I believe I did.

1 A Yes. Once the packages were finalized,
2 this is what it would look like, yes.

3 Q Okay. "Funder," we know that would mean
4 that EMESS was the party that was buying in on the
5 deal, correct?

6 A Correct.

7 Q Okay. There's a term there in boldface
8 print. It says "Magic of \$1,710,000."

9 Do you see that?

10 A Yes.

11 Q I note that under the structure of this
12 deal, it required payments of \$337,500 times four
13 payments. That was -- that's set forth under the
14 note as part of this deal?

15 A Right.

16 Q Okay. That sum totals 1,350,000?

17 A Correct.

18 Q Okay. So what is the difference of that
19 360,000 that constitutes this figure called "magic"?

20 A The term "magic" is a term that
21 Ms. Villegas came up with because it was a way for
22 her to keep track of the number that she actually
23 was ~~putting~~ using. ✓

24 I believe if you look at the first page of
25 this settlement agreement, or the second page -- it

1 should be the first or second -- second page, you'll
2 see that that's the total amount being sent in.

3 So that would be 1,000 -- excuse me --

4 1,000, 1,710,000 coming in; ^{the} plaintiff's portion, ✓

5 ~~1,350.~~

between 1,710,000 and 1,350,000

6 So the difference ¹would be our attorney's ✓

7 fees and costs.

8 Q Okay.

9 A That was simply part of the fraud.

10 Q The plaintiff's name is listed there as

11 David Freeman. Of course, there was no David

12 Freeman, right?

13 A Correct.

14 Q How were names of plaintiffs chosen?

15 A In the beginning, my recollection is that
16 I was creating the names. Once the Ponzi scheme got
17 up and running where it was multiple deals on a
18 daily basis, Debra would create names; Amy Howard --
19 I'm not sure if Amy actually created names. I know
20 Marybeth -- I've seen some emails that Marybeth
21 Feiss created a bunch of plaintiffs' and defendants'
22 names.

23 So it was -- if it wasn't a real corporate
24 name -- and using real company names was the
25 exception, as opposed to the rule -- it would either

1 have been created by me and then, later on, by Debra
2 and Marybeth; possibly Amy, but I don't recollect
3 one way or the other *about Amy.* ✓

4 Q Was there any rhyme or reason as to how
5 names were picked, or was it just out of the phone
6 book or what?

7 A Out of our heads, I believe. I don't know
8 if they were looking in the phone book. I think
9 most of time it was just made up.

10 Q Same with respect the defendants' name?

11 A Unless we were using a real company, they
12 were just completely made up, yes: a combination of
13 other companies' names, that kind of thing.

14 Q Okay. Who in the firm knew that you were
15 engaged in these settlement deals?

16 A You need to clarify for me "knew that we
17 were," quote, unquote. In the business of selling
18 settlements or knew that we were engaged in the
19 illegal creation of settlements and sale of that
20 product?

21 Q Well, let's take --


22 A You need to differentiate for me.

23 Q Who knew that you were in the business of
24 selling the settlements?

25 A At some point in time, probably a good

1 percentage of the people that worked in the law
2 firm, because word got around.


3 Other than people that were directly or
4 indirectly involved, I was approached by a number of
5 attorneys that were not involved in the Ponzi
6 directly but that wanted to get on in.

7 Grant Smith is a perfect example. He
8 approached me on numerous occasions that ~~him~~^{he} and his 
9 wife, Eliza, wanted to invest.

10 He did not know that it was a Ponzi
11 scheme. To my knowledge, he did not know, and I
12 would not allow him to invest.

13 Q I didn't -- I didn't see him as an
14 investor; is that because you wanted to keep certain
15 people out of the investments?

16 A Specifically with him, I did not want him
17 involved in case it blew up.

18 Q Why? *It was per the contract*
19 A I didn't want him to lose his money. 

20 Q All right. Didn't you also have a rule
21 with respect to certain friends you wanted to keep
22 out?

23 A There were people that I did not -- that I
24 did not perceive could withstand the loss, okay, if
25 the thing did explode.

1 I mean, there were obviously people I
2 didn't want to do business with because I was
3 fearful of being discovered.

4 Q Who were some of those people; do you
5 remember?

6 A They were -- they were more people that I
7 had met along the way that had been introduced to me
8 by, let's say, the hedge funds or the Banyan folks
9 or Szafranski, that, for lack of a better term,
10 ~~linked~~ ^{linked} up with me when I met them, didn't want to do
11 business with them. ^{and I} ✓

12 But for the most part, you know, I -- I
13 would like to say that there was a tried and true
14 formula so I could help you along, Mr. Lichtman; I
15 can't. There were certain people, like Grant Smith,
16 that I just was not going to allow to get involved
17 in this.

18 Bob Kagan and Bonnie Barnett, another
19 example.

20 If you look at the email traffic and what
21 was going on at the time, I had no idea that they
22 were going to invest when they invested, ultimately.
23 But I remember distinctly, because I remember where
24 I was at the time, calling Irene and saying, I don't
25 know what the hell is going on but you need to cut a

1 resigned from the firm.

2 But Grant was a very, very loyal friend,
3 and I don't think he would want this to rain down
4 upon anybody that he had that kind of a relationship
5 with, so...

6 Q So his response would have been to quit on
7 you?

8 A His response ~~either~~ would have been to
9 resign and to tell me to knock it off. ✓

10 Q Okay. You said that there were some other
11 the lawyers that were involved and knew of the
12 illegal business of selling these settlements; who
13 were those lawyers?

14 A That knew specifically we were selling
15 illegal settlements?

16 I want to make sure we are all on the same
17 page.

18 Q Yes.

19 A David Boden, Stuart Rosenfeldt, Russ
20 Adler.

21 Lippman may have known. I really don't
22 recall what the full extent -- he was involved in a
23 lot of other things, as you know, so...

24 As far as my lawyers -- you're talking
25 lawyers only, right?

1 Q Lawyers only.

2 A Okay.

3 Q Because I think you mentioned nonlawyers.

4 A Me, Adler, Boden, Rosenfeldt. Lippman to
5 a lesser degree.

6 Q Boden's role tied in mostly with Pearson;
7 is that a fair statement?

8 A Tied in with Pearson? ^{Yes} ~~Yeah~~. He was ✓
9 running almost like a -- I think someone -- some
10 document called it a subPonzi. I think that's
11 probably the best way to describe it.

12 Q Okay. How about Stu, what was his
13 involvement?

14 A Stu was in a unique position. Stu was not
15 directly involved in the Ponzi scheme, other than to
16 live the lifestyle.

17 At some point in time he became aware that

18 we were selling the illegal settlements ^{and sat in on} ✓

19 ^{Some investor meetings and some meetings}
He tried at one point in time, to my

20 knowledge, to attempt to bring an investor in. ^{with}

21 Other than that, you know, he wasn't involved on a
22 daily basis except to reap the rewards from it.

23 Q He knew that the activity was illegal,
24 though, correct?

25 A Sure.

1 Q Okay. He was a 50-percent shareholder of
2 the firm?

3 A Yes.

4 Q What was Russ's involvement?

5 A Russ was -- had, I would say, probably the
6 same knowledge as Stu, plus a little bit of --
7 because Russ was involved in a scenario assisting us
8 in putting together fraudulent due diligence for the
9 hedge funds. ^{And} ~~So~~ he also tried bringing in ✓
10 investors, but he never was able to.

11 And he, of course, also reaped the
12 benefits of the illegal activity.

13 Q Let me go back to the documents here.
14 Whose idea was it to set up these and
15 structure them as they were reflected by the
16 documents?

17 A I got a lot of documents here, not the --

18 Q Exhibit 3?

19 A -- not the promissory note.

20 We are talking about Exhibit 3?

21 Q Exhibit 3, yeah, the settlement.

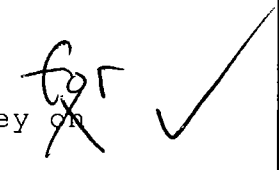
22 A That, it was a combination that was me and
23 Frank Preve; and then, later, by this time, Boden
24 had put his two cents in, also. But, excuse me, the
25 main structure would have been me and Frank Preve.

1 A Yes. Albert was in a major panic that
2 Manfredi Lefebvre was going to come in, go through
3 the books and records. Also, during the point in
4 time that Manfredi was over here in the States, he
5 would be unable to embezzle any further funds until
6 he left.

7 Q So, with respect to this Yoel deal, do you
8 know of any event, factor or business reason why she
9 would have been paid \$400,000 by Silverseas,
10 anything reflecting she was actually owed money by
11 Silverseas?

12 A No.

13 Q It was purely to help Albert get the money
14 out of the company, correct?

15 A Yes, it was to help Albert get money on
16 something, yes. 

17 Q Okay. I'm going to show you Exhibit Four.

18 (Thereupon, the document was
19 marked as Trustee's Exhibit No. 4 for
20 identification.)

21 BY MR. LICHTMAN:

22 Q I'm showing you what has been marked as
23 Exhibit Four for identification purposes. It's
24 actually Exhibit Two to the response to the
25 Trustee's motion --

1 money in Albert's pocket, correct?

2 A Yes, a substantial amount of money.

3 Q How did that come about?

4 A Albert put together a deal, along with
5 other people like -- I don't remember their names.
6 He put together the whole idea of Jewel River
7 Cruises. David Boden ultimately vetted it for us,
8 and we came to the determination that ^{it} was going to ✓
9 be an excellent idea.

10 It was a river cruise but ultra luxury,
11 same thing that Silversea was doing except on
12 rivers; and there was -- all of the river cruises,
13 to our knowledge, based upon what he showed us, were
14 all below luxury level. So, he wanted to do almost
15 like a Silversea but river-cruise-type thing.

16 We invested a substantial amount of the
17 Ponzi proceeds into Jewel River and Albert's ~~stolen~~ ✓
18 money.

19 Q When you say "we," who is "we"?

20 A Me, Stuart -- more me and Stuart than
21 anything else and, of course, other people. If you
22 go back and look at the email traffic, you'll see
23 Boden wanted to be involved in those things.

24 Q Lippman?

25 A Lippman, yeah, obviously Lippman.

1 **proceeds?**

2 A I don't know what happened to those exact
3 proceeds: We may have used them or he may have used
4 them. Both Silversea -- you have got to understand,
5 once this got involved, anything that Mr. Peter
6 wanted, he was, in essence, paying us, using
7 Silversea, for us to assist him in anything he
8 needed with regard to anything he was doing with his
9 mistresses and the like. So we were protecting his
10 interest^S.

11 Q With respect to the bond funds, though, he
12 knew that it was an illicit transaction?

13 A Sure.

14 Q Okay. Now take a look at Paragraph 12, if
15 you would, please. '

16 A Yes.

17 Q If you would read that?

18 MR. NURIK: Do you have the exhibits?

19 MR. LICHTMAN: What's that?

20 MR. NURIK: The exhibits to this?

21 MR. LICHTMAN: No.

22 THE WITNESS: Okay.

23 BY MR. LICHTMAN:

24 Q Paragraph 12 addresses -- it's a statement
25 by Mr. Peter that you had required the additional

1 A Yes.

2 Q You started doing illegal activity with
3 him as far back as 2006, at least, correct?

4 A From the time that I first met Albert,
5 until the time that we completed our business, even
6 ~~through the that~~ ^{through the that} ~~though~~ people introduced us, I was always -- Albert ✓
7 and I always had a relationship that was based upon
8 getting as much money as we could, illegally or
9 legally.

10 Q And you met Mr. Peter through a
11 ~~Mr. Colicchio~~ ^{Caniglio}, correct? ✓

12 A Stanley ~~Colicchio~~ ^{Caniglio}, correct. ✓

13 Q And in return for the benefit of RRA
14 having Silversea as a client, Mr. ~~Colicchio~~ ^{Caniglio} got a ✓
15 car, correct?

16 A Can you restate that?

17 Q Okay. Mr. ~~Colicchio~~ ^{Caniglio} told you that since ✓
18 he delivered Mr. Peter and Silversea as a client to
19 your firm, he wanted a car out of the deal; that's
20 correct?

21 A Correct.

22 Q And, indeed, you bought him a car?

23 A Correct.

24 Q Okay. Showing you what's been marked as
25 Trustee's Exhibit Five; and, indeed, it is Exhibit

1 A Ted ~~Morris~~ ^{Morse}, Mr. Picou, Stu, a gentleman
 2 named John Bria, Crockett ~~Heard~~ ^{Heard}, Marty Hines, a guy
 3 named Jack Hardy, there's a pretty substantial group
 4 of guys that were -- that we hung out together for
 5 an extended period of time, many years, socialized
 6 together, both with the wives and without.

7 Q ~~Bart Robinson~~ ^{Mark Levinson}

8 A No. He was a friend, but he was --

9 Q Next tier?

10 A One of the tiers but not -- maybe the next
 11 tier, but not -- he wasn't in the inner circle of
 12 our friends. He didn't socialize with us
 13 frequently.

14 Q Okay. Now, with respect to that inner
 15 circle of friends, that doesn't mean that they all
 16 knew about the Ponzi?

17 A No, no, absolutely not.

18 Q Okay. With respect to Mr. Picou, what
 19 kind of business did you do with him?

20 A We represented his company as their
 21 general counsel. We did all of their legal work,
 22 anything that Southern Grouts & Mortars needed, from
 23 having the business people in our firm do -- handle
 24 his revolver accounts with Merrill Lynch to
 25 lawsuits, to ~~pattern~~ ^{patent and} trademark litigation, anything

1 Q What did that involve?

2 A There was significant gambling debts.
3 There was a significant amount of money he was
4 taking out of the company for personal use that he
5 didn't want Joyce to know about.

6 There were several girlfriends that he
7 had. He was moving money out of the company, which
8 Joyce, obviously, as his wife for many, many years,
9 believed she had a right or entitlement to, that he
10 was pulling out to subsidize, pay for the life of --
11 the lifestyle of, at one point in time, one, and at
12 another point in time, two -- two of his
13 girlfriends.

14 Q Do you have a personal knowledge as to the
15 financial statements and related documents that were
16 used by Mr. Picou?

17 A For the purpose of securing his revolving *RF* ✓

18 Q With respect to his divorce.

19 A Yes.

20 Q What is it that you observed about those
21 forensics, those financial documents?

22 A They were false.

23 Q How do you know they were false?

24 A Because I know the true state of his
25 financial affairs *and I assisted in the fraud.* ✓

1 Q Did you counsel with respect to those
2 documents?

3 A To -- to some extent. Most of the
4 documents, I believe, were prepared by Mark Thaw,
5 but I assisted in getting the information from
6 Carlos Flores -- what's a good term -- acting as
7 kind of a sieve. Information would come through our
8 office. We would shake it out and make sure that
9 nothing too bad got to Mark.

10 Q Was Mr. Thaw knowledgeable of the fact
11 that the financials were false?

12 A You know, I don't know what he knew. I
13 know he knew Ron had a gambling problem, and I know
14 he knew about the girlfriends; but I don't know to what
15 ^{he knew} ~~the extent~~ that Ron was tied up with our firm in the
16 movement and hiding of money. ✓

17 Q Mr. Flores, he was the CFO of Southern
18 Grouts & Mortars, correct?

19 A Yes.

20 Q Did he know the financials were false?

21 A I would be guessing. I have no idea what
22 he knew. He had -- Mr. Flores was a very loyal
23 worker to Mr. Picou, and, you know, it was protect
24 Ron at all costs. So, I don't know the extent of
25 his knowledge. I would be guessing.

1 statements were submitted to his company that they
2 weren't accurate?

3 A Yes.

4 Q And then Mr. Picou paid those bills?

5 A ^{He}~~They~~ ordered them paid, right. His ✓
6 daughter, who was, I believe, executive vice
7 president of the company, Liza McKee, actually is
8 the one who ordered that the checks be cut.

9 Q And when the money came into RRA, what
10 happened to it?

11 A Various things, a substantial amount of it
12 was used to support our firm and our lifestyles; and
13 portions of it went to pay debts of Mr. Picou.
14 Portions of it were converted into cash for him, and
15 not necessarily --

16 Let's say, for example, we sent over
17 \$100,000 in the form of a legal bill. As you
18 probably know by now, we had substantial cash
19 reserves at the law firm, so if he needed money in
20 cash, I would give it to him. So, we would keep a
21 portion of the money, and he would get a portion of
22 the money.

23 Then we used -- we used another friend of
24 his to get smaller cash payments out to him, also.

25 Q Who was friend?

1 A Joseph Santomassino.

2 Q Is he the person that owned the bowling
3 alley --

4 A No.

5 Q -- Santomassino?

6 A No. That was different.

7 He owned a real estate agency, Distinctive
8 Realty, I think.

9 Q Okay. Well, first things first, you said
10 that the firm had large cash deposits inside the
11 firm. Describe that for the record.

12 A Not deposits.

13 Q Cash --

14 A Cash.

15 Q -- yes. Describe that, please.

16 A A substantial amount of our illegal
17 business required access to large amounts of cash,
18 so we had various methodologies of obtaining cash
19 and keeping it in the office so we had ready access
20 to it. It could vary from \$60-, \$70,000 laying
21 around to a few hundred thousand to ~~\$~~ million
22 laying around at any point in time.

23 Q Where was it kept?

24 A In my office.

25 Q Where?

1 A Some was kept in Irene's but not that
2 much.

3 Q In your desk?

4 A Actually in the credenza behind me.

5 Q Okay. Now, with respect to
6 Mr. Santomassino, let's get back to him.

7 A Uh-huh.

8 Q What was his role in getting smaller
9 amounts of cash to Mr. Picou?

10 A What happened was, Ron would say, I need
11 an extra 5 grand, I need an extra 2,500, 3,000. We
12 would then cut a check. I think we were doing it on
13 a monthly basis.

14 You should be able to tell on the ledger.
15 There should be checks to Mr. Santomassino which
16 Mr. Santomassino either then deposited it ~~in cash~~ or
17 cashed, and then that money was given by
18 Mr. Santomassino to Picou.. ✓

19 It will say on the ledger "consulting,"
20 but you'll also note that Mr. Santomassino never
21 consulted with us on any -- for anything ~~else~~. ✓

22 Q What did Santomassino get out of the deal?

23 A I don't know. That was between him and
24 Ron, but I know that Ron took very good financial
25 care of Mr. Santomassino.

1 Q Did you assist Mr. Picou in any matters
2 pertaining to his revolving line of credit with
3 Merrill Lynch Business Credit?

4 A Yes.

5 Q What was it that you did for him?

6 A Every one of the audit letters that we
7 did, you know, the audit letters that, I guess, Mark
8 Thaw's company would be sending us in order to do
9 his audited financials to substantiate, increase,
10 sustain, keep ~~going~~ his revolving line of credit *going* ✓
11 with Merrill were fraudulent.

12 Q How do you know that?

13 A Because I did them.

14 Q Who knew they were fraudulent?

15 A Me, I think Irene. I don't think Deb was
16 involved in that.

17 At some point in time David Boden was
18 involved in helping me because I needed some
19 language that pertained more to business things that
20 he would have been more *Knowledgeable in* ~~suave in~~. ✓

21 Who else worked on it -- actually,
22 Mr. Lippman.

23 We dummed up what we needed to in order
24 to -- Irene was definitely involved in it because we
25 had to create fraudulent legal bills in order to

1 off a preferred ship mortgage; are you familiar with
2 that transaction?

3 A Do I remember the transaction?

4 Q Yes.

5 A Yes.

6 Q Tell me your recollection of that
7 transaction.

8 A Our firm was representing -- this was
9 actually a real lawsuit. We were representing
10 Ron --

11 Q Rolls Royce case?

12 A Yeah. Right.

13 -- in litigation over a boat. It was --
14 there were problems from the engines on his yacht.
15 I believe it was the Enjoy.

16 We were supposed to handle the lawsuit.
17 We were supposed to be suing the company. The
18 lawsuit was turned over to one of our younger
19 partners, Shawn Birken, to handle. ✓

20 Ultimately, something went awry with the
21 lawsuit, either the statute of limitations was
22 blown. Something happened. We got knocked out on
23 summary judgment.

24 And rather than tell Ron what had gone on,
25 we -- in that one, I believe we paid off the boat.

BAK

1 to me, ownership of those funds, if you're holding
2 it in trust, and it will help keep us in check on
3 the audit~~ed~~ financials and help keep us in check ✓
4 with the Merrill people.

5 Q Okay. Claim 222 filed by Southern
6 Grouts & Mortars, for \$592,335 related to,
7 apparently, money that was to be issued back to
8 them, being back to Southern Grouts, pertaining to
9 that Laticrete lawsuit. Do you have any knowledge
10 about that?

11 A It would be the same thing.

12 Is that also on an audit form that we sent
13 to Morrison Brown?

14 Q No. That was just the statement they say
15 that you owed 592 on the -- on the trust.

16 A "Owed" is an interesting term because
17 anything that they were sending us was being
18 utilized with Mr. Picou's knowledge either as
19 payment to us both for real work and for assisting
20 him and perpetrating his frauds, or money that was
21 coming to us for the purpose of us laundering money
22 out to him or to his girlfriends --

23 Q I have one last question --

24 A -- and for his debts.

25 Q -- on Picou, and then we'll probably be at

1 a good breaking point, remembering this is just a
2 204, not dealing with a lot of substance of other
3 things.

4 A Okay.

5 Q Was there a specific bond deal that you
6 recall where a bond was posted that was fraudulent?

7 A I think there were multiple of them.

8 Q Again, it would have been the same
9 scenario, when you have a company like that, much
10 like the Silversea thing, you have only limited
11 bills you can send out.

12 A: So, we would simply explain to Ron: This
13 is what we're going to do, and that will get us the
14 amount of money, and we're going to use it for
15 certain of our expenses, and what you need, whether
16 it be a gambling debt or the like, we'll pay for it.

This is my answer
✓

17 MR. LICHTMAN: Okay. I've actually
18 covered the limited topics I needed on my 204
19 exam. I know that my cocounsel has some
20 questions. This might be a good opportunity
21 for a couple-minute break. Does that work? Do
22 you need a break?

23 THE WITNESS: Whatever you ladies and
24 gentlemen want to do.

25 (Thereupon, a recess was had.)

1 A That's a very broad question.

2 He was -- to try to put it as succinctly
3 as possible, he was initially what we'll call a
4 third-party verifier brought in by the New York
5 hedge funds, Centurion Platinum and Level Three, to
6 verify the authenticity of the deals. Later HE
7 became a feeder with knowledge of the Ponzi scheme.

8 Q I have some names of individuals that we
9 have identified as investors in certain Szafranski
10 feeder funds. And I'll ask you if you know any of
11 them personally or if you ever heard their names.

12 First one is Adele Mussry. M-U-S-S-R-Y.

13 A I have heard of her, but only after I
14 began my cooperation.

15 Are you talking about a time frame that I
16 knew who they were prior to today?

17 Q Yes. At any time prior -- at any time
18 prior to the time that you were actually put into
19 federal custody?

20 A Okay. Then, no. I don't know who she is.
21 I did not know who she ^{was}~~is~~ back then. ✓

22 Q How about an entity known as Alepo Corp.
23 A-l-e-p-o?

24 A No.

25 Q Allen Packer?

1 him but nothing specific comes to mind.

2 Q HN Associates?

3 A Nope.

4 Q Howard Weiss?

5 A Nope.

6 Q Joel Sussman. S-u-s-s-m-a-n.

7 A Again, that name sounds familiar to me. I
8 may have met him but I don't have any specific
9 recollection of doing so.

10 Q Jay, that's J-A-Y dash 2 investment?

11 A No. I don't.

12 Q Jay Mussry? M-u-s-s-r-y?

13 A Again, not until after I came back.

14 Q Jacob Szafranski?

15 A No.

16 Q Did Mr. Szafranski ever speak about any of
17 his relatives being investors?

18 A He may have in passing, but he was
19 bringing in a lot of people and he was just running
20 it through his companies. So unless he needed me to
21 meet somebody, and other than Ira Sochet and Barry
22 Damson and those guys, I don't really recall --
23 other than ~~the~~ handshake with someone. ✓

24 It's not to say that I might not have
25 given a presentation to one of these people but I

1 A No idea.

2 Q Theodore Weinberger?

3 A No.

4 Q Zevi Schick -- I'm sorry. Zevi Schick?

5 S-c-h-i-c-k.

6 A No.

7 Q Do you know whether Mel Lifshitz ever
8 went -- ever used the name Menachen?

9 I have no idea. I always knew him as Mely
10 Lifshitz.

11 Q Do you know whether Mel Lifshitz was
12 related to the Barry Group?

13 A No idea.

14 Q Do you know if he was related to EL
15 Capital?

16 A No idea.

17 Q Sitting here today, you don't recall which
18 entities he either used or controlled?

19 A Off the top of my head, no. I'd have to
20 see. If ^{you've} got documents that reflect it, that
21 might help. But other than that, no. ✓

22 Q Do you recall Edward Koppelman?

23 K-o-p-p-e-l-m-a-n.

24 A No.

25 Q Also, were there multiple Banyan entities

1 A Let's see how to do this most concisely
2 for you.

3 At a point in time when the Ponzi scheme,
4 and it's related scheme ^S were running extremely low ✓
5 on cash, and we had run aground with regard to the
6 hedge funds and the like, in addition to having Mr.
7 Szafranski going out and getting us new investors,
8 Banyan was in an extremely -- let's call it a
9 voracious search for new money.

10 And somewhere along the line I was
11 introduced to Barry as a potential source of huge
12 amounts of money, meaning in the hundreds of
13 millions of dollars.

14 I don't -- I have ^a recollection, by the ✓
15 way, of meeting Barry at some point in time in Fort
16 Lauderdale. I believe he was dating a woman that
17 worked for another partner of mine in another
18 company. He was dating -- Diane something who
19 worked for Howard ~~G~~^uverman, ^{which} who was another company ✓
20 we invested in and he was also a very close friend.

21 So I recall meeting him there.

22 But the main thing that Barry did was
23 Barry -- and I'm saying allegedly -- brought us,
24 because there was massive confusion as to who was
25 actually taking credit for a certain large group of

1 investors. And when I say that group I'm talking
2 about the A.J. Discala, Doug Von Allmen⁶³, some other ✓
3 people associated with them, the related group folks
4 and that whole group. There was a massive bone of
5 contention between Banyan and A.J. and Von Allmen
6 and Barry about who actually generated these
7 dollars.

8 But Barry was representing ²⁰ to me to be, ✓
9 quote, unquote, number one, a player.

10 And, two, that he had access to huge
11 portfolios of money, including public funds through
12 pensions and the like.

13 That's the initial knowledge of him.

14 Q Who represented you to him as being a
15 player?

16 A George Levin and Howard Gruverman.

17 Q And what did you learn about --

18 A And Frank Preve..

19 Q What did you learn about a company called
20 Ballamor?

21 A That it was his investment company. I was
22 originally told by Mr. Preve that Ballamor was a
23 very successful, big money operation.

24 I later learned that -- I don't know how
25 successful it was, but that Barry was very short on

1 personal cash. And the whole way the whole player
2 thing came up to me was that we could count on
3 Barry -- I was told this by Frank Preve and by
4 George Levin on a couple of occasions, but more by
5 Preve, that we could count on Barry to do the right
6 thing by us, meaning bring as many investors to the
7 table with as little scrutiny as possible. Because
8 two things: One, he needed to borrow money from
9 Mr. Levin to pay his personal bills. I believed he
10 borrowed a million dollars.

11 And he was also looking for a large
12 infusion of capital into a bank of which he was the
13 chairman, Nova Bank, I believeⁱⁿ Pennsylvania. ✓

14 He was looking for a large infusion of
15 cash, again, I believe \$5 million.

16 And there was a quid pro quo going on.

17 And Mr. Levin and Mr. Preve both told me
18 that -- not to worry about Barry, that they had him
19 in their pocket, and that he needed them for
20 financial activity for the -- for his bank and for
21 him personally and so he was going to do the right
22 thing by the Ponzi scheme -- without using the words
23 Ponzi scheme. By the way, we never actually -- none
24 of the people ever used that word in discussing the
25 activity.

1 A Pavano I remember hearing about through
2 the A.J. Group, but just in passing.

3 Q A.J. Group is controlled by who?

4 A I couldn't tell you who. That's the
5 Clockwork, Levin, Barry, Von Allmen.

6 Q Renee Zonenshine? Z-o-n-e-n-s-h-i-n-e.

7 A Nope.

8 Q Robert Bruno?

9 A Nope.

10 Q Richard Polidoro -- Polidori?

11 A Nhu-uh. No.

12 Q Robert Palmer?

13 A No.

14 Q Todd Merrimen?

15 A No.

16 Q William White?

17 A No.

18 Q Or Patricia White?

19 A No.

20 Q Next questions relate to Banyan Income
21 Fund and Investors Net Enterprise and see if you
22 know any of them directly.

23 A I got the ^{beginning} ~~bit~~ part. What was the second
24 part?

25 Q Whether you know any of them directly as

1 individuals in entities related to Mr. Ovadia Levy
2 and his family that invested through RRA?

3 A I believe they were. They did their deals
4 very similarly to the way Mr. Lipsitz and Mr.
5 ~~Tadaichi~~ ^{Tonacchio} did their deals. ✓

6 Q When you say the deals were similar, in
7 what context do you mean?

8 A There was no paperwork.

9 Q You ultimately asked for paperwork --

10 A When I say no paperwork, I mean no --
11 nothing other than a promissory note.

12 Q And at any time did you ask for paperwork
13 after the fact in regard to any of these deals?

14 A For the Levys?

15 Q Yes.

16 A No.

17 Q Okay.

18 A Wait. There may have been another
19 document that they did. Sometimes they had some
20 other guarantee of payment or something, saying ~~XI~~ ✓
21 was going to pay -- a second sheet of paper. But
22 when I say no documentation, it was basically a no
23 documentation exchange of money.

24 Q I'm going to ask you the names of some
25 entities and other individuals.

1 Q At some point did you come to learn that
2 Szafranski was verifying in addition to paying rates
3 of return to investors within his entities?

4 In other words, did you know that
5 Szafranski was acting as a verifier and also was
6 acting as a feeder fund at the same time?

7 A He was ~~always~~ -- sure. He made that
8 arrangement with me. ✓

9 Q And this was something you knew about?

10 In other words, you knew -- he was
11 directly investing at the same time he was
12 verifying?

13 A At some point in time, Szafranski -- it
14 was at the time that -- it actually was at the time,
15 if I remember correctly, when the hedge funds had
16 basically cut us off.

17 Mike said to me directly, if the hedge
18 funds aren't going to fund because I believe he had
19 some kind of prohibition about or he believed there
20 was some kind of conflict about bringing in
21 investors while they were still actively investing,
22 although I do believe they were still investing.
23 But I guess he got their permission to bring in
24 people, because he said to me, dead out. If they're
25 not going to be bringing in new investors, I'll

1 bring in my people.

2 And my response to him was, I mean, Mike
3 you know there's no plaintiffs; you still want to
4 bring people in? He goes, yeah, everybody is making
5 a lot of money. I'll bring people in. And he did.

6 Q And was this time period where the funds,
7 as you stated stopped providing cash, do you recall
8 when that was?

9 A Say that again.

10 Q When you say the funds were not providing
11 any more capital, do you recall --

12 A Anymore? No. I remember some distinct
13 times when things were slowing down. But I don't
14 remember when they finally stopped.

15 I'm not sure they ever -- I guess they did
16 cut us off completely at some point in time.

17 But you^{I've} got to remember that I'm dealing
18 with them on a somewhat^{limited} basis individually, but more
19 especially on the financial side through Preve.

20 Q Yes.

21 A When I say "Preve," it's Preve and Levin.
22 You know it's Banyan, but my main interaction was
23 with Preve on behalf of the Banyan group.

24 And so most of the financial stuff would
25 have been. So it's very possible that they invested

1 right up until the end.

2 I know they were trying desperately to get
3 all their money out. So they may have been
4 investing small amounts with us, you know,
5 reinvesting money in order to keep us happy. But
6 the large influx of money stopped pre-April of '09,
7 before that.

8 Q And what happened pre-April of '09, where
9 it stopped?

10 A There were number of different things
11 going on.

12 Q Was there anything in particular relating
13 to --

14 A Financial markets were cracking. I
15 believe we had the '-- I don't remember the dates of
16 anything. We had Madoff, we had Petters, we had
17 Dreier.

18 I believe the people inside -- within
19 their company were ~~close to~~ ^{concerned about} the increase in our deal
20 flow ~~were getting~~ -- I don't know. I guess
21 suspicious or concerned about what was going on.
22 They came to do some more due diligence. There was
23 a lot going on at that point in time.

24 I think it was really divided.

25 You know, ^{you've} ~~you~~ got to understand this, those

1 companies, there was a lot going on inside of them,
2 because they were trying very hard to maintain a
3 wall as if Platinum, Centurion, and Level 3 were
4 different entities when in reality, they were all
5 being run by the same guy and decisions were all
6 being made by the same person.

7 So I couldn't tell where money was coming
8 from because one group would cut us off and then
9 Huberfeld would come up with another group and
10 they'd invest. So it was crazy all over place.

11 But, again, when you're trying to keep a
12 Ponzi scheme from exploding, you don't really care
13 who is putting the money in so long as you're
14 getting the money so you can keep the enterprise
15 alive.

16 Q And there's some final names I would like
17 to discuss with you, and then I'm going to ask Mr.
18 Lichtman to finish up.

19 **Intracoastal Asset Group?**

20 A I think that was -- I think that was the
21 thing we set up way down the road with Dr. ~~Bode~~ **Bogz** ✓
22 Rosenblat and Ari Glass from Platinum Centurion,
23 Level 3.

24 Q And did you ever have direct dealings with
25 that entity through RRA?

1 A No. They were a feeder. If I'm
2 remembering correctly, they were a feeder.

3 Q SFS Funding, who controlled that entity,
4 if you know?

5 A SFS, that was one of the side -- it was
6 called a one off company that Frank Preve had put
7 together with somebody.

8 I believe that was the one we had with
9 Murray Huberfeld.

10 Q Was that acting as a feeder fund to the
11 RRA Ponzi scheme?

12 A When you say feeder fund, I don't know
13 what they were doing. But they were sending us
14 money. I don't know if it was their money,
15 Mr. Huberfeld's money, Mr. Preve's money or someone
16 else's money.

17 Q And what involvement did you have with Don
18 King Production before October of 2009?

19 A I was approached through somebody -- I
20 don't remember who brought him to me. He was
21 looking for investors for a fight he was going to
22 promote. And I ended up meeting with him.

23 We hit it off and I ended up, I think,
24 investing around \$700,000 to ~~put up~~ ^{promote} a bunch of our ✓
25 company's -- through a fight that he was putting on

1 There were back and forth between me and
2 the hedge funds and me and the Banyan people trying
3 to facilitate the due diligence they wanted to do.

4 What ended up happening was Brian Jedwab,
5 who was probably one of the more, I guess observant
6 people in that group, decided it would be a good
7 idea to ~~give him~~ ^{Kalter} -- and probably Gil ~~Colter~~ ^{Wad} also, ✓
8 also in the category of more observant people within
9 Murray Huberfeld's groups, decided that this -- the
10 deal flow that we were saying existed was
11 suspicious, highly unusual, possibly impossible,
12 things of that nature is what we were hearing from
13 up north and back to us. And we needed to put on a
14 dog and pony show for them if this thing ~~were~~ ^{was} going ✓
15 to survive. Because if we can't show the deal flow,
16 one of two things is going to happen: Either
17 they're just going to cut us off or they're going to
18 cut us off and the thing is going to explode.

19 Obviously, we couldn't allow that to
20 happen.

21 So initially what happened was they just
22 wanted to talk to some of our referring groups. So
23 I sent out an email to the entire firm -- I think it
24 was the entire firm -- at least to the shareholders
25 and partners. But it may have been to the all the

1 A Yeah. I'll tell you who they are.

2 Q Yes.

3 A These people needed to lie to the hedge
4 fund due diligence people to substantiate our deal
5 flow.

6 That's the conversation Russ and I had.
7 ~~We~~ ^{They} had to specifically say they sent us hundreds of ✓
8 cases, which would have been false.

9 They needed to say that these cases were
10 big dollar cases, in the millions of dollars, which
11 was false.

12 And they needed to say that we sent them
13 huge dollar referral fees; also false.

14 Huge dollars meaning hundreds of thousands
15 if not million of dollars in referral fees. ~~fees~~ ^{fees} ✓

16 So there were three main false components.

17 What Russ did to find the people, I don't
18 know. I'm sure he had conversations with them
19 because they needed to be instructed on which lies
20 to tell and how to handle this.

21 Q And indeed lawyers stepped into the role
22 to perform for you and lie, correct?

23 A Yes.

24 What ended up happening was I got one
25 legal -- legal group to do it, mutual friends of

1 Russ's and mine, people that I was very close to,
2 Doug Bates and Wayne Koppel. They had a lawyer firm ✓
3 together. I had known Doug Bates for many, many
4 years, and he falls into the category of being a
5 player. And he stepped up.

6 I explained to him and Wayne what they
7 needed to do.

8 I believe -- I don't remember which one of
9 them.

10 My recollection is that Wayne actually is
11 the person that was there. But one or the both of
12 them actually sat in the meeting and just blatantly
13 lied in the fashion that we asked them to about
14 those three items.

15 Russ got 'us --

16 Q And you didn't -- you didn't prepare those
17 persons, to the best of your knowledge? Russ
18 prepared them?

19 A Bates - Bates and Koppel, I believe I
20 prepared them and Russ may have.

21 Q Okay.

22 A I don't have an independent recollection,
23 actually.

24 Q Were there others?

25 A Yes. Steve Rossi and Howard Herskowitz.

1 A Sure.

2 Q Who else knew about that?

3 A Stu Rosenfeldt.

4 Q What did Steve get in return for?

5 A Massive amounts of money. He got money
6 out of that. He had basically unfettered access to
7 us paying his American Express bill. He was getting
8 ~~a~~ huge ~~amount~~ amount of money every month for expenses ✓
9 that were not really attributable to real expenses.

10 He got an inordinate salary. He got a
11 vehicle.

12 Q And a home addition?

13 A With that -- that all kind of falls for
14 under the whole expense thing. I mean, we paid --
15 you know, we paid for a -- again, quote, unquote,
16 rock star lifestyle for him.

17 Q Lifestyle of the Rich and Rothstein?

18 A Rich and Rothstein. Yeah. You don't want
19 the lifestyle I have now.

20 Q I'm sure. Okay.

21 Gilbert Spencer got a loan for \$442,500.

22 Do you know what that was for?

23 A He was broke. Austin Foreman had
24 approached me, along with some other of our friends
25 and said, Listen, we're trying to help keep this guy